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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/890,013	11/15/2001	Shalaby Wahba Shalaby	00537-072005	6218
75	90 06/05/2003			
Biomeasure Incorporated			EXAMINER	
27 Maple Street Milford, MA 0			ACQUAH, SAMUEL A	
			ART UNIT	PAPER NUMBER
			1711	
			DATE MAIL ED. 06/06/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	09/890,013	SHALABY ET AL.				
Office Action Summary	Examiner	Art Unit				
	SAMUEL A. ACQUAH	1711				
Th MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) days will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	nely filed s will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).				
Status 1)⊠ Responsive to communication(s) filed on <u>27 J</u>	lune 2002 .					
,— .	is action is non-final.					
 ,		rosecution as to the merits is				
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims						
4)⊠ Claim(s) <u>1-42</u> is/are pending in the application						
4a) Of the above claim(s) is/are withdraw						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-42</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers						
9)☐ The specification is objected to by the Examine	r.					
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12)☐ The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a)⊠ All b)□ Some * c)□ None of:						
 Certified copies of the priority document 						
2. Certified copies of the priority document						
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
a) The translation of the foreign language provisional application has been received.						
15) Acknowledgment is made of a claim for domest	ic priority under 35 U.S.C. 9§ 120	Janu/OFTZT.				
Attachment(s) 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s)						
 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 	5) Notice of Informal	Patent Application (PTO-152)				

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DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/39738.

The cited prior art discloses sustained release ionic conjugate which contains a free carboxyl group-containing biodegradable polymer and a free amino group-containing drug which are ionically bonded to each other. Patentees clearly teach that the polymer may be one derived from e-caprolic and glycolic acids, and may further contain tartaric or citric acid units. The amino group unit is derived from a peptide such as claimed. See pages 1, 2, 5, and claims 5-9. Because of the acids used, the requirement of carboxyl to hydroxyl ratio being greater than one would be obvious. It is the examiner's position that the claimed composition and the method of preparation and use as claimed, including the limitations of the dependent claims would have been obvious based on the disclosures of the cited prior art.

- References listed on PTO-1449 have been made part of the record.
- 3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMUEL A. ACQUAH whose telephone number is 703-308-2436. The examiner can normally be reached on M-TH, FRIDAYS OFF.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JAMES SEIDLECK can be reached on 703-308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-0661.

S.A.A. May 30, 2003 SAMUEL A. ACQUAH PRIMARY EXAMINER GROUP 1288 //50